

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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PAAB Docket No. 2021-064-10025A

Parcel No. 8317-11-300-013

**Daniel Beane et al.,**

Appellants,

vs.

**Marshall County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 4, 2021. Daniel Beane represented the Appellants. The Marshall County Board of Review was represented by Attorney Jamie Cox.

David and Daniel Beane et al. own an agriculturally classified property located in LeGrand Township in Marshall County. The property's January 1, 2021 assessment was set at \$53,660. (Ex. A).

Daniel Beane petitioned the Board of Review claiming an error in the assessment. Iowa Code § 441.37(1)(a)(1)(d). (Ex. B). The Board of Review denied the petition. (Ex. C).

The Appellants appealed to PAAB reasserting their error claim.<sup>1</sup>

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<sup>1</sup> Subsequent to the filing of the PAAB appeal, the Iowa Department of Revenue issued an equalization order applicable to the subject property, effectively reducing its assessed value to \$50,300. (Ex. L).

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). PAAB determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

## **Findings of Fact**

The subject property is a 29.64-acre unimproved farm field that adjoins other farmland owned by the Beanes. The Soils Calculation Report indicates the subject parcel consists of multiple soil types with CSR ratings from 62 to 95 with an average of 76.87, all of which is designated as cropland. (Ex. E).

Daniel Beane testified for the Appellants and provided a history of the parcel. He explained it was sold to the Iowa Department of Transportation (IDOT) in 2001. (Appeal). The IDOT used the property as a borrow pit for the construction of an overpass on new highway 30. The family repurchased the farm in 2006. Beane testified the topsoil and subsoil was stripped and disturbed to a depth of 20 or 30 feet. He asserts the IDOT replaced a couple of inches of topsoil but completely ignored the subsoil. He believes the shallow topsoil and lack of subsoil limits the field's productivity. Beane testified that in dry years the crops grown on the subject property dry quicker than adjoining fields, and in wet years the soil does not drain properly. Additionally, he asserts the productivity has been reduced because of changes to its slope.

Beane testified the subject property's 2007 CSR was lowered to 10, and notes on the assessment card indicate it would remain at this rate for ten years. He explained deep rooted alfalfa was planted to enrich the soil and patterned drainage tile was installed. Soybeans were planted in 2017 and 2019; and corn in 2018. A local farmer cash rents the property as well as the Beanes' adjoining farmland. The tenant was unhappy with the subject property because of the low yields for three years straight. Beane testified the yields did not cover the cost of production. The tenant quit renting the property after 2019. The Beanes then planted the property to grass and put it in a long-term Conservation Reserve Program. Beane submitted yield maps showing drastic changes in yields between the adjoining fields and the subject property<sup>2</sup> in support of his yield assertions. (Ex. 3). For example, the 2019 yield map shows a majority of Beane's property producing greater than 34 bushels an acre whereas the affected area is producing less than 22 bushels per acre.

Discussing an aerial photograph depicting demarcations of soil types, Beane stated his belief they were inaccurate. (Ex. D). "The soil types listed on this map no longer exist on this parcel." He testified that a soil survey has not been done for decades and that, when the conversion from CSR to CSR2 took place, the old soil surveys were used.

Marshall County Assessor Blaze Wurr testified on behalf of the Board of Review. Wurr used the CSR2 that was updated June 10, 2020, and utilized by the Sidwell Company in calculating the productivity of the parcel. (Exs. D – F). Beane questioned whether the June 2020 update involved new soil surveys or was just an update to existing data.

He explained the Iowa Code precludes him from making any changes when assessing agriculturally classed land. (Ex. H & G). It was Wurr's opinion that the subject property is in crop production or capable of crop production and therefore should be considered cropland. He did not believe any of the special considerations for adjusting cropland on Manual page 2-27 existed on the subject property. He does not believe he

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<sup>2</sup> The subject property is shown on the bottom right hand corner of the yield maps.

has any discretion to adjust Beane's property. Wurr consulted the Iowa Department of Revenue regarding the subject property and found no options available to him in the assessment. He is required to follow Iowa Code. (Exs. I & G). Beane questioned why the Assessor was able to make an adjustment to the property in 2006, but is now unable to do so.

Wurr gave Beane contact information to the Natural Resources Conservation Service (NRCS). The NRCS is responsible for determination of the CSR2 ratings. He asserts if the CSR2 is not changed, the assessed value cannot be changed. Beane contacted the NRCS regarding a change to his CSR2. He was told the analysis of one farm or parcel is against policy, the NRCS is understaffed, and it could be twenty years before the subject parcel is updated.

### **Analysis & Conclusions of Law**

The Appellants contend there is an error in their assessment under Iowa Code section 441.37(1)(a)(1)(d).

Under Iowa Code section 441.37(1)(a)(1)(d), an aggrieved taxpayer or property owner may appeal their assessment on the basis "[t]hat there is an error in the assessment." An error may include, but is not limited to, listing errors or erroneous mathematical calculations." Iowa Admin. Code R. 701-71.20(4)(b)(4).

The subject property is classified agricultural. Iowa Code section 441.21(1)(e) requires agricultural property be assessed by giving exclusive consideration to its productivity and net earning capacity. Any formula or method employed to determine productivity and net earning capacity of property shall be adopted in full by rule. § 441.21(1)(e); R. 701-71.3. Assessors are to consider the results of a modern soil survey, if completed. § 441.21(1)(f); R. 701-71.3.

The Department of Revenue has adopted rules to determine productivity and net earning capacity. In making a determination of value, assessors "shall also use available data from Iowa State University, the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS), USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources." R. 701-71.3(1)(a).

The IOWA REAL PROPERTY APPRAISAL MANUAL shall be used, as well as any other IDR guidelines. R. 701-71.3(1)(a).

One part of the productivity and net earning capacity formula includes the corn suitability ratings (CSR). The CSR reflects a given soil type's potential productivity and serves to provide an equitable basis for farmland assessment. MANUAL 2-25 (2008). The CSR2 formula considers the soil type, particle size, water holding capacity, field condition (including slope, flooding, ponding, erosion class, and topsoil thickness), soil depth and rate of erosion. *Id.* at 2-26.

In 2013 IDR amended rule 701-71.3(1) "to address the lack of uniformity in the distribution of agricultural productivity value at a parcel level across the state of Iowa." IAB Vol. XXXV, No. 24 (5/29/13) p. 1897, ARC 0770C. Implementation of these changes was to occur by 2017.<sup>3</sup> R. 701-71.3(1). Effectively, the amendment removed non-uniform adjustments being made by assessors across the State, perhaps similar to the adjustments Beane previously received on his parcel.

Assessors are now required to designate agriculturally classified real estate as cropland or non-cropland. The MANUAL provides examples of cropland and non-cropland. MANUAL 2-26 to 2-28. Non-cropland is subject to adjustment by rule. R. 701-71.3(1). The MANUAL indicates that additional adjustments may be made to cropland and non-cropland for special considerations. MANUAL 2-27 to 2-28. It also provides that land that might otherwise be considered cropland should be treated as non-cropland in certain situations. MANUAL 2-28.

The Board of Review argues the Assessor has followed the results of the most recent soil survey as required by law and therefore there is no error. Beane asserts the soil survey is not accurate for his property and therefore his valuation is in error.

PAAB has heard cases involving similarly tailored claims before. *Kraus v. Black Hawk County Board of Review* involved a property used as a borrow pit and its soil stripped for a highway construction project. PAAB Docket No. 2015-007-00037A (Nov.

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<sup>3</sup> We note Beane was aware of the change from CSR to CSR2, but appears not to have been aware that the change to CSR2 was accompanied by amendments to the administrative rules related to agricultural valuation.

9, 2015). Similar to the present matter, Kraus argued the Assessor's use of pre-construction CSR ratings did not account for the changed condition of the soil. Kraus asserted it should be assessed based on a CSR rating of 20, but did not submit any evidence supporting that CSR rating. PAAB affirmed the assessment based on the pre-construction CSR ratings. It stated, "The Krauses offered no evidence [to] show that the designation of tillable/non-tillable ground is inaccurate, or that the current valuation based on the CSR2 ratings results in an error."

More recently, PAAB made adjustments to agricultural properties used for strip mining. *Loynachan v. Marion Cnty. Bd. of Review*, PAAB Docket No. 2019-063-10028A (Jan. 24, 2020); *Johansen v. Marion Cnty. Bd. of Review*, PAAB Docket No. 2019-063-10020A (Jan. 24, 2020). Loynachan and Johansen offered evidence from a USDA soil scientist who visited the property, took a soil sample, and indicated it should have the CSR2 ratings reduced from 47.8 to 5. Further, they were able to testify to reduced yields on the property. While PAAB did not believe the isolated soil sample should reduce the entire acreage's CSR rating, it did "change the designation of the real estate to non-cropland in recognition of the parcels' impaired productivity and earning capacity..."

The legislature has directed that agriculturally classified properties should be valued based on their productivity and net earning capacity. § 441.21(1)(e). That is the end goal.

The soil survey is a means to arrive at the statutorily-required valuation. Where there is compelling, quantified evidence the soil survey may no longer accurately represent a parcel's productivity due to a substantial construction project, we conclude that evidence should be considered in arriving at the productivity and earning capacity value mandated by Iowa law.

In this case, there is specific, compelling and quantified evidence that man-made action through the highway construction resulted in degradation of the subject's soils and reduced the subject's productivity as of the January 1, 2021 assessment date. As a result, we find adjustments should be made to the affected acres to account for the diminished productivity and earning capacity. The yield maps show a distinct difference in yields between the affected acres and the adjoining unaffected acres. Conservatively,

it appears the affected acres' yields are 50% below that of the unaffected acres. An adjustment based on this evidence appears permissible under guidelines set forth in IDR's Manual. MANUAL 2-27 to 2-28. We express no opinion about whether the degradation is temporary or permanent, or how the subject's productivity may or may not be affected in years which are not under appeal.

### **Order**

PAAB ORDERS the Board of Review shall measure the affected acres and apply a 50% adjustment to that acreage.<sup>4</sup>

Upon identification of the affected acres and revaluation of the property, the Board of Review shall report the adjusted valuation to PAAB within 10 days of the date of this Order.

The Appellants shall have 10 days to file any objection to the valuation. PAAB will issue a final order upon consideration of the valuation and any objection.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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Marshall County Board of Review by eFile

<sup>4</sup> For legal and practical reasons, we are not ordering the CSR2 ratings to be changed; only that an adjustment be applied to the affected acres.